

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

KWAI FUN WONG; ET AL.,)	
)	
Plaintiffs,)	Civil No. 01-718-ST
)	
v.)	<u>ORDER</u>
)	
IMMIGRATION & NATURALIZATION)	
SERVICE, being sued as David V. Beebe, Jerry F.))	
Garcia, Jack O'Brien, Douglas Glover and John Doe,))	
INS Officials; ET AL.,)	
)	
Defendants.)	
)	

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JONES, Judge:

Magistrate Judge Stewart filed an Opinion and Order (# 150) and Findings and Recommendation (# 151) on April 26, 2005, in the above entitled case. The Opinion and Order is before me pursuant to 28 U.S.C. § 636(b)(1)(A) and Fed. R. Civ. P. 72(a); the Findings and Recommendation is before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

1. Opinion and Order.

In her Opinion and Order, Magistrate Judge Stewart granted in part and denied in part plaintiffs' motion (# 143) for leave to file a fourth amended complaint, and denied as moot defendants' motion (## 135, 136) for judgment on the pleadings or summary judgment. When either party objects to any portion of a Magistrate Judge's order on a non-dispositive pretrial matter, the district court determines whether the Magistrate Judge's order is "clearly erroneous or

contrary to law." See 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Osband v. Woodford, 290 F.3d 1036, 1041 (9th Cir. 2002).

Defendant Immigration and Naturalization Service, USA ("INS"), has filed objections (# 153). Plaintiffs, in turn, filed a motion (# 164) to strike INS's objections. I deny plaintiffs' motion, and I have considered INS's objections and find no error. Accordingly, I AFFIRM Magistrate Judge Stewart's Opinion and Order (# 150), filed on April 26, 2005, in its entirety. Plaintiffs' motion for leave to file a fourth amended complaint is granted as to plaintiff Kwai Fun Wong and denied as to plaintiff Wu Wei Tien Tao Association. The amended complaint shall be filed within 10 days of the date of this order. Defendant INS's motion is denied as moot.

2. Findings and Recommendation.

In her Findings and Recommendation, Magistrate Judge Stewart granted in part and denied in part defendant Beebe's motion (# 112) to dismiss plaintiffs' third amended complaint. When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1)(B); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982).

Defendant Beebe and plaintiffs both have timely filed objections (## 153, 156). I have, therefore, given de novo review of Magistrate Judge Stewart's rulings.

I find no error. Accordingly, I ADOPT Magistrate Judge Stewart's Findings and Recommendation dated April 26, 2005, in its entirety. Defendant Beebe's motion to dismiss plaintiffs' third amended complaint is granted as to the Association's second and fourth claims and Wong's fourth claim to the extent it is based on plaintiffs' associational rights and denied as

to Wong's first and second claims and Wong's fourth claim to the extent it is based on interference with her rights to practice her religion by adhering to her religiously-mandated vow of celibacy and vegetarian diet.

Defendants' request for oral argument is denied.

IT IS SO ORDERED.

DATED this 27th day of June, 2005.

/s/ Robert E. Jones
ROBERT E. JONES
U. S. District Judge